

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

RASHID K. KAMBAROV

(b) County of Residence of First Listed Plaintiff Umatilla  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

HARRISON LATTO – 1631 NE Broadway, No. 533, Portland OR  
503-223-0783

**DEFENDANTS**

TROY BOWSER, MARK A. PATTON, CHRISTOPHER P. DIGIULIO, JOHN DOE's 1-5, AND STATE OF OREGON

County of Residence of First Listed Defendant Unknown  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Oregon Dept. of Justice

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input checked="" type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Title 42, Section 1983, United States Code  
Brief description of cause:  
Inadequate medical care

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
175.00

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
08/06/2019

SIGNATURE OF ATTORNEY OF RECORD

Harrison Latto

**FOR OFFICE USE ONLY**

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

RASHID K. KAMBAROV,

No. \_\_\_\_\_

Plaintiff,

**COMPLAINT**

vs.

(Deprivation of civil rights; negligence)

TROY BOWSER, MARK A.  
PATTON, CHRISTOPHER P.  
DiGIULIO, JOHN  
DOE's ONE THROUGH FIVE,  
and the STATE OF OREGON,

DEMAND FOR JURY TRIAL

Defendants.

For his COMPLAINT against defendants, plaintiff RASHID K.  
KAMBAROV alleges as follows:

**(Parties:)**

1. Plaintiff RASHID K. KAMBAROV is an individual and a resident of the State of Oregon. He is presently a prison inmate, in the custody of the Oregon

Department of Corrections, and housed at the Two Rivers Correctional Institution (TRCI).

2. Defendant TROY BOWSER is an individual and, on information and belief, a resident of the State of Oregon. At all times pertinent to this complaint, he was employed as the Superintendent of TRCI. All of his actions described in this complaint were taken in during the course of, and in furtherance of his duties as superintendent. He is sued herein in his individual capacity, for actions taken in the course of his official duties.

3. Defendants MARK A. PATTON, AND CHRISTOPHER P. DiGIULIO are individuals and, on information and belief, residents of the State of Oregon. At all times pertinent to this complaint, they were employed by the Oregon Department of Corrections (DOC). Defendant PATTON was employed as a treating physician, and defendant DiGIULIO was employed as the deputy medical director, or medical director. All of their actions described in this complaint were taken in during the course of, and in furtherance of their duties as employees of the DOC. They are sued herein in their individual capacity, for actions taken in the course of their official duties.

4. Defendants JOHN DOE's 1 through 5 are persons, whose identities are presently unknown to plaintiff, and who committed or participated in the decision, described below, to refuse to provide necessary and appropriate medical care and treatment to plaintiff. When the identities of these persons are ascertained by plaintiff through the discovery process in the course of this action, plaintiff will seek the court's permission to amend this complaint to allege their

identities and to allege the means by which they caused the harm to plaintiff that is alleged in this action.

**(Jurisdiction:)**

5. This court has jurisdiction over plaintiff's claims against defendants BOWSER, PATTON, DiGIULIO, and JOHN DOE's ONE THROUGH FIVE pursuant to 28 U.S.C. § 1331. This court has supplemental jurisdiction over plaintiff's claim against defendant STATE OF OREGON based on state law, pursuant to 28 U.S.C. § 1367(a). The claim against defendant STATE OF OREGON is based essentially on the same nucleus of operative facts as those by which the individual defendants have incurred liability to plaintiff.

**(Factual allegations:)**

6. At some point during February of 2016, plaintiff first sought medical assistance, care, and treatment from defendants, for the extreme discomfort and pain, and drainage of pus, that he was experiencing in his perineal and anal region. Plaintiff did not know the cause of the pain and discomfort, but suspected that he was afflicted with a cyst, or with a perineal or anal fistula or abscess, or with an infection of some kind.

7. As a prison inmate in the custody of the DOC, plaintiff had no other means of obtaining medical diagnosis and treatment, than through the medical providers offered to him by DOC.

8. In response to plaintiff's request for care and treatment, defendant PATTON ordered that a culture for the presence of bacteria be conducted, after

which he apparently diagnosed plaintiff as suffering from some infection.

Defendant Patton prescribed an antibiotic.

9. Plaintiff thereafter obtained only temporary relief from his symptoms, lasting only one or two weeks, after which the same symptoms returned, at either the same or an increased level of severity. Plaintiff received no follow-up care, or additional examination, although for months after the initial diagnosis of an infection he repeatedly requested to be examined and diagnosed further, and to be examined again, and more thoroughly, by defendant PATTON. All of these requests were denied by defendants.

10. In fact, plaintiff, at the time he was first examined by defendant PATTON in February of 2017, was suffering from a rectal fistula (fistula-in-ano), and a pilonidal cyst. A competent physician, through the exercise of a reasonably capable and thorough examination, consistent with the ordinary standard of medical care then exercised, would have discovered that plaintiff was so afflicted. The regular and common treatment for these medical conditions would have consisted of surgery to repair the fistula and remove the cyst.

11. Finally, after months of rebuffing his requests for additional care and diagnosis, plaintiff was again seen by defendant PATTON, in September of 2017. Defendant PATTON refused to examine plaintiff, other than cursorily and summarily dismissed plaintiff's complaints of severe pain and discomfort, again without conducting a reasonably capable examination and diagnosis in keeping with the prevailing standard of care required of physicians at the time.



12. On or about October 11, 2017, plaintiff was advised by employees of the DOC that plaintiff had been approved for surgery. However, seven weeks passed after that advice, with no action taken by defendants or the DOC. In November plaintiff was advised by defendant DiGIULIO, contrary to the advice he received on October 11, that plaintiff had been appropriately examined and diagnosed by defendant PATTON; that plaintiff had received, and was receiving appropriate care and treatment and monitoring; and that no further consultation would be requested, or additional diagnostic procedure or examination performed.

13. On or about November 30, 2017, plaintiff filed a petition in the Circuit Court For Umatilla County (assigned docket number 17CV52622), naming defendant BOWSER as defendant and seeking a writ of habeas corpus directed to him and requiring him to provide plaintiff with appropriate medical care and treatment, that he was then refusing to provide. As a result of this action, defendant BOWSER agreed to provide plaintiff with an outside medical consultation and examination.

14. During this examination, which was conducted on or about December 14, 2017, at the Kadlec Clinic in Richland, Washington, plaintiff was diagnosed by a competent physician as suffering from a rectal fistula (fistula-in-ano), and pilonidal cyst. Surgery was recommended to repair the fistula.

15. Defendants, on the basis of the diagnosis reached at the Kadlec Clinic, agreed that surgery should be provided. Surgery to repair the fistula and remove the cyst was performed on or about March 6, 2018, at the Kadlec Clinic. The surgery was successful and plaintiff thereafter was gradually relieved of the

symptoms he had been experiencing, as described in paragraph 6 of this complaint.

16. Because defendants, over a period of several months, consistently and deliberately refused to examine plaintiff, and consistently and deliberately refused to provide adequate and appropriate diagnostic care, plaintiff unnecessarily suffered from extreme pain and discomfort, for a period of over one year – from approximately February of 2017, through March of 2018 – to his damage in an amount to be determined.

17. If defendants had provided reasonably capable and competent medical care to plaintiff initially, in February of 2017, plaintiff's actual medical ailment would have been correctly diagnosed; surgery would have been ordered and conducted; and plaintiff would not have been forced to endure the extreme pain and discomfort described in paragraph 16.

18. Plaintiff required follow-up, post-operative care for months after his surgery, consisting of, among other things, regular and periodic changing of the dressing over the surgical site.

19. Defendants knew, or should have known in the exercise of reasonable care, that plaintiff was and is a devout Muslim, and that, as a tenet of his faith, is forbidden from having any woman not his wife view his genital or anal area.

20. Plaintiff, because of his legitimate and sincere religious beliefs, requested that defendants provide to him only male nurses or aides to assist plaintiff in the regular changing of his dressing.

21. Defendants intentionally refused to provide plaintiff with exclusively male nurses and aides to assist with the necessary task of changing plaintiff's dressing, which was in the private area that under the tenets of his religion, was forbidden to be seen by any female person not his wife. Instead, and even though male nurses and aides were regularly available to perform this task, defendants and others presently unknown to plaintiff intentionally scheduled his visits to the infirmary during times when only female nurses and aides were available to assist plaintiff with the changing of his dressing.

22. Defendants had no legitimate penological justification for refusing to provide plaintiff with exclusively male nurses and aides for this task.

**(LEGAL CLAIMS:)**

**CLAIMS AGAINST DEFENDANTS BOWSER, PATTON, DiGIULIO,  
AND JOHN DOE'S ONE THROUGH FIVE  
FOR VIOLATION OF CIVIL RIGHTS**

**FIRST CLAIM: Violation of plaintiff's rights under Eighth Amendment:**

23. Plaintiff re-alleges and incorporates herein all of the preceding allegations in paragraphs 1 through 22.

24. Defendants BOWSER, PATTON, DiGIULIO and JOHN DOE'S ONE THROUGH FIVE deliberately disregarded plaintiff's serious, legitimate, and pressing need for appropriate medical diagnosis and treatment, from approximately February through November of 2017. They thereby subjected plaintiff to unconstitutionally cruel and unusual punishment, in violation of the



Eighth and Fourteenth Amendments to the United States Constitution, and to plaintiff's damage in an amount to be determined.

**SECOND CLAIM: Deprivation of plaintiff's rights under First Amendment:**

25. Plaintiff re-alleges and incorporates herein all of the preceding allegations in paragraphs 1 through 22.

26. Defendants retaliated against plaintiff on account of his continuing requests and demands for appropriate medical care and treatment, by providing plaintiff only with female nurses and aides that would assist plaintiff in periodically changing his dressing, which was required and necessary post-surgical care. Defendants thereby violated plaintiff's rights to free speech and to petition the government for redress of grievances, guaranteed to him by the First and Fourteenth Amendments to the United States Constitution, to his damage in an amount to be determined.

27. Plaintiff has satisfied all of his obligations under the Prison Litigation Reform Act, 42 U.S.C. § 1997e.

**CLAIM AGAINST DEFENDANT STATE OF OREGON**

**THIRD CLAIM: Negligence**

28. Defendant STATE OF OREGON, through its division the DOC, had a legal obligation to provide prison inmates within its custody with appropriate and necessary medical care and treatment.

29. Defendant STATE OF OREGON breached that obligation, beginning in February of 2017 and continuing through plaintiff's correct diagnosis and

treatment by the Kadlec Clinic in March of 2018, causing plaintiff unnecessarily to suffer extreme pain and discomfort for a period of over one year.

30. Had defendant STATE OF OREGON fulfilled its legal obligation to plaintiff, to provide him with reasonably capable medical care and treatment, plaintiff's actual condition would have been diagnosed in February of 2017; surgery would have been preformed soon thereafter, which would have relieved plaintiff's symptoms; and plaintiff would not have had to endure over one year of extreme pain and discomfort.

31. Plaintiff, in compliance with the Oregon Tort Claims Act, provided defendant STATE OF OREGON with timely notice of his claim.

**(Jury demand:)**

32. Plaintiff hereby requests a trial by jury on all of his claims.

WHEREFORE, plaintiffs pray for judgment against defendants, as follows:

1. On plaintiff's first claim for relief, for a money judgment against defendants BOWSER, PATTON, DiGIULIO, and JOHN DOE's ONE THROUGH FIVE, and against each of them, in the amount of \$150,000, together with plaintiff's reasonable attorney fees incurred and to be incurred in the prosecution of this action, pursuant to 42 U.S.C. § 1988(b);

2. Upon plaintiff's second claim for relief, for a money judgment against defendants BOWSER, PATTON, DiGIULIO, and JOHN DOE's, ONE THROUGH FIVE and against each of them, in the amount of \$25,000, together with plaintiff's reasonable attorney fees incurred and to be incurred in the prosecution of this action, pursuant to 42 U.S.C. § 1988(b);

3. Upon plaintiff's third claim for relief, for a money judgment against defendant STATE OF OREGON in the amount of \$150,000;
4. For plaintiff's costs and disbursements incurred in this action; and
5. For such other relief as the court deems just and proper under the circumstances.

DATED this 6<sup>th</sup> day of August, 2019.

*/s/ Harrison Latto*

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HARRISON LATTO  
Attorney at Law  
Attorney for Plaintiff  
Rashid K. Kambarov